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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,819	05/03/2001	Richard T. Allen	ACS 57527	8480

24201 7590 03/18/2003

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EXAMINER

MATTHEWS, WILLIAM H

ART UNIT PAPER NUMBER

3738

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/848,819

Applicant(s)

ALLEN ET AL.

Examiner

William H. Matthews (Howie)

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6,10,11,15-19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6,10,11,15-19 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 13 January 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 1-21-03 (Paper #7) has not fulfilled the request of the Examiner during the telephonic interview of November 4, 2002.

Currently, many references listed in the IDS (Paper #3) received Aug 15, 2001 are still missing and have not been considered. Those references are found on pages 1,2, and 4 of Paper #7 (attached to this office action). There are a total of 15 references the Examiner requests Applicant to furnish copies of in response to this Office Action.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "58" and "54" have both been used to designate valleys (54) in figure 8. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Applicant's proposed drawing correction was not entered because the red ink modification changed "54" to -58- which is opposite of the proper correction.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

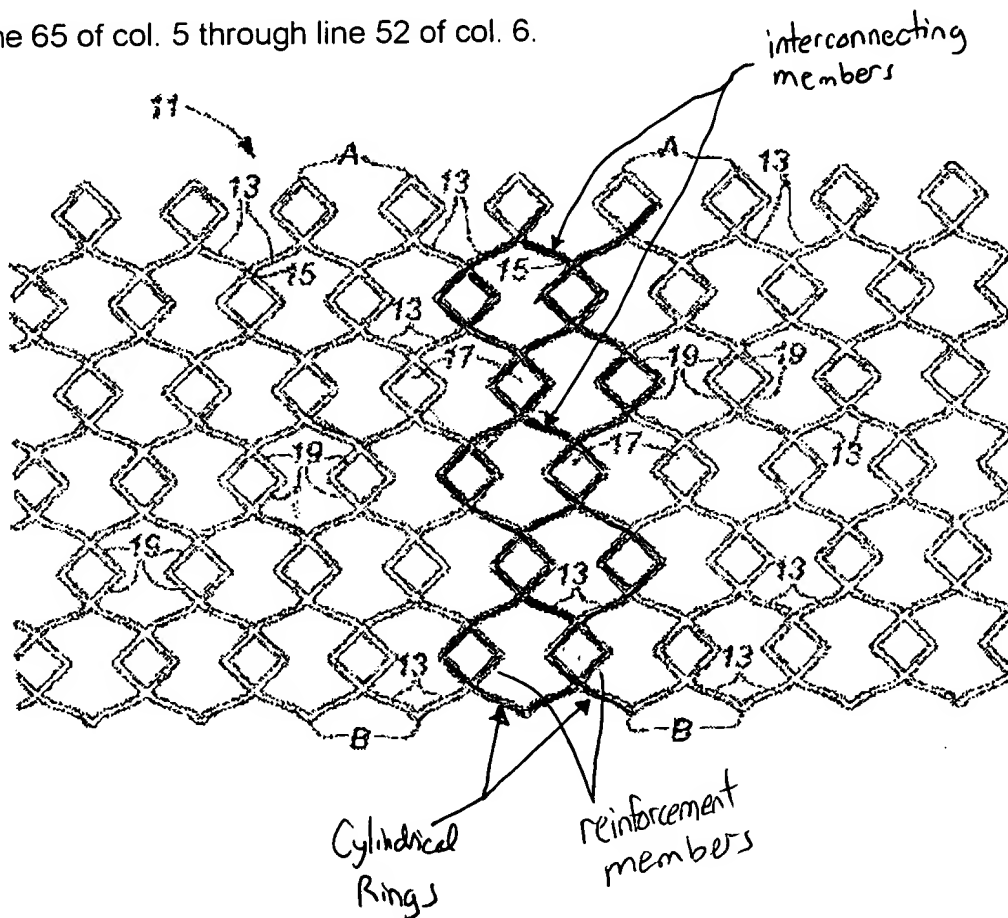
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3738

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,2,6,11,15-19, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Milo US PN 6,206,911.

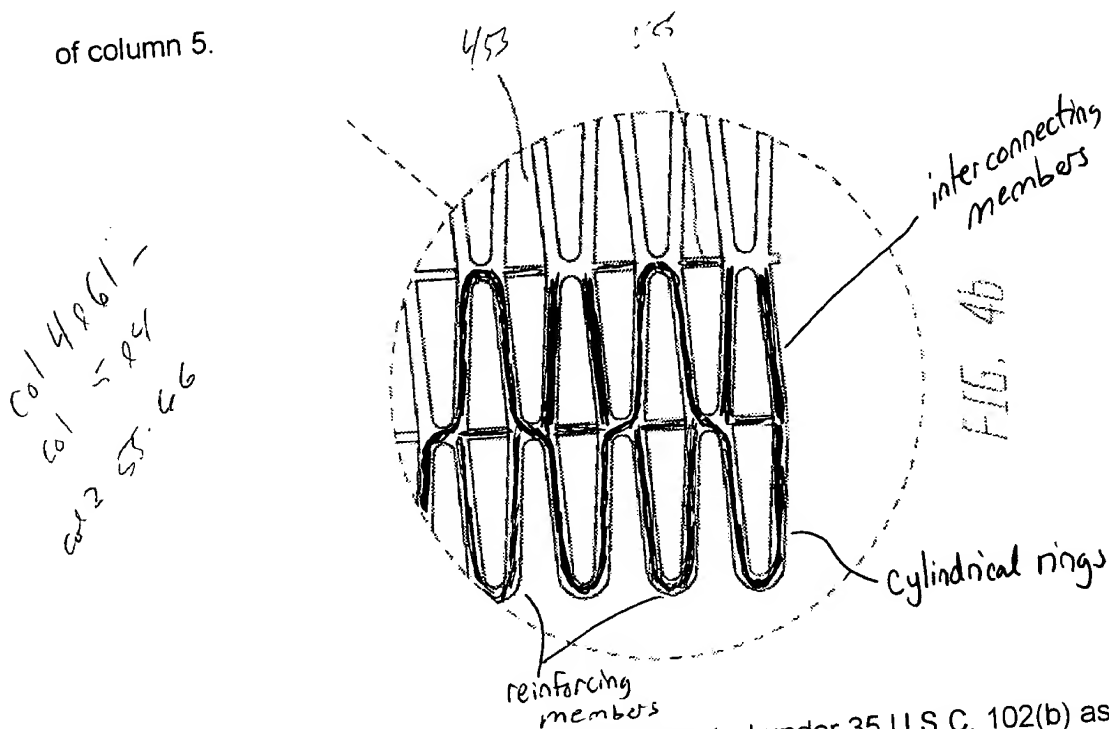
See figure 1 inserted below specifically showing location of the cylindrical rings, reinforcing members, and interconnecting members in figure 1. Also see lines 26-54 of col. 3 and line 65 of col. 5 through line 52 of col. 6.



Application/Control Number: 09/848,819  
 Art Unit: 3738

3. Claims 1,2,4,10,11,15,16,18,19, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Killion US PN 5,868,781.

See figure 4b below specifically showing location of the cylindrical rings, reinforcing members, and interconnecting members in figure 4B. Also see lines 16-27 of column 5.



4. Claims 1,4,6,10,11,18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiroyuki et al. JP 10201856 A.

Hiroyuki et al. discloses a stent in figures 11-12 meeting the structural limitations of claims 1,4,6,10,11,18, and 19. See the attached figures 11-12 showing specific locations of the cylindrical rings, interconnecting members, and reinforcing members.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1,2,4,6,10,11,15-19, and 21 have been considered but are moot in view of the new ground(s) of rejection.

6. With regard to independent claims 1 and 18, Applicant asserts that Milo, Killion, and Palmaz do not teach the reinforcing member (1) lying in the same circumferential plane as the cylindrical elements (or rings), (2) having a configuration that is essentially parallel to the longitudinal axis, and (3) configured to limit radial expansion of the cylindrical elements. Arguments pertaining to Palmaz are now moot. With regard to Milo and Killion, the Examiner respectfully disagrees. Regarding Milo and Killion, both disclose reinforcing members lying in the same circumferential plane as the cylindrical elements (all reinforcement elements are contained within the walls of the cylindrical elements), *essentially* parallel to the longitudinal axis (essentially as Applicant's figure 8 element 60), and both reinforcement members of Milo and Killion limit radial expansion because of the mere connection of the reinforcement members to the cylindrical rings. See Figures provided above.

***Conclusion***

7. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 1-21-03 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3738

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Matthews (Howie) whose telephone number is 703-305-0316. The examiner can normally be reached on Mon-Fri 7:00-4:30 (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2708 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



WHM

March 12, 2003

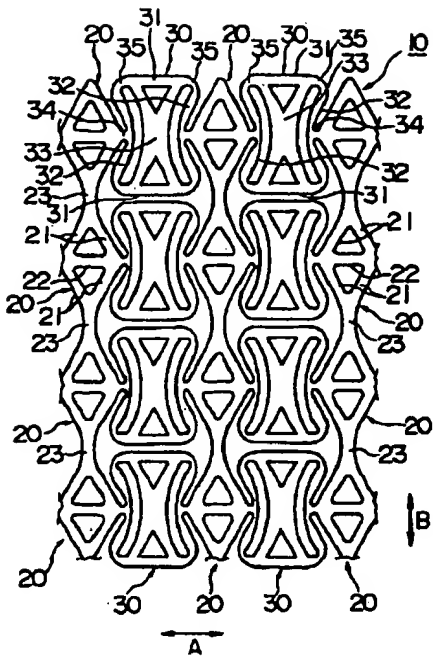
  
**CORRINE McDERMOTT**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**



(8)

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【図11】



【図12】

